76th Annual Report of The Ontario Municipal Board

for year ended December 31st 1981

Ontario

Ontario Municipal Board

180 Dundas Street West
Toronto

76TH ANNUAL REPORT

of

THE ONTARIO MUNICIPAL BOARD

Upon the Affairs of the Board

During the Year Ended

December 31, 1981

TO: THE HONOURABLE THE ATTORNEY GENERAL

Pursuant to Section 100 of
The Ontario Municipal Board Act
R.S.O. 1980, Chapter 347

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Ontario Municipal Board

PART I

NATURE AND SCOPE OF REPORT

This is the report of the Board for the calendar year 1981 as required by Section 100 of The Ontario Municipal Board Act, R.S.O. 1980, as amended, which reads as follows:

> "The Board shall, after the close of each calendar year, make an annual report upon the affairs of the Board to the Attorney General who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session."

The Board interprets "the affairs of the Board" as not only the statutory functions spelled out in numerous statutes, but also a responsibility to recommend legislative changes arising from problems which we encounter in the performance of our duties. The Board attempts to interpret the needs of communities in relation to the aspiration of people, always consistent with what we understand to be Government policy yet not inconsistent with our statutory responsibilities. When the Board is of the opinion that some improvement might elevate these standards, we have made recommendations to responsible Government agencies. Recognizing that some municipalities might require assistance, the Board has continued its practice of participating in discussion groups throughout the Province. This has involved attendance by Board Members and staff at a number of such meetings. Hopefully, the results have been of benefit to municipalities, in better understanding the functions

and mechanics of our Board. In addition, where major legislative changes are contemplated, the Board, on the initiative of the Attorney General, has met with representatives of various ministries and made recommendations, particularly in relation to the Planning Act and the Environmental Assessment Act.

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PART II

MEMBERSHIP and ORGANIZATION

The offices of the Board are located at 180 Dundas Street West, Toronto (Inquiries - 7th Floor).

All members of the Board are appointed on a full-time basis* and the following is a list of the Members during 1981:

		Date of Appointment
H.E. STEWART	Chairman	April 1, 1974 Chairman - Sept. 1, 1979
A.H. ARRELL, Q.C.	Vice-Chairman	June 30, 1961 Vice-Chairman - June 30, 1961
A.L. McCRAE	Vice-Chairman	December 1, 1958 Vice-Chairman - Oct. 1, 1974
W.T. SHRIVES	Vice-Chairman	October 18, 1965 Vice-Chairman - June 1, 1977
W.H.J. THOMPSON, Q.C.	Vice-Chairman	July 1, 1966 Vice-Chairman - June 1, 1977
D.S. COLBOURNE	Vice-Chairman	September 3, 1968 Vice-Chairman - June 1, 1977
D.D. DIPLOCK, Q.C.	Vice-Chairman	July 1, 1977 Vice-Chairman - July 1, 1977
P.M. BROOKS	Vice-Chairman	November 1, 1973 Vice-Chairman - Nov. 13, 1980
H.H. LANCASTER	Vice-Chairman	September 7, 1970 Vice-Chairman - June 30, 1981
A.B. BALL	Member	January 1, 1974
C.G. EBERS, Q.C.	Member	August 12, 1974
H.W. KELLY, Q.C.	Member	September 3, 1974

J.A. WHELER	Member	September 3, 1974
E.A. SEABORN	Member	September 9, 1974
A.J.L. CHAPMAN, Q.C.	Member	September 30, 1974
W.E. DYER, Q.C.	Member	December 1, 1974 Deceased December 26, 1981
C.G. CHARRON, Q.C.	Member	February 1, 1975
K.D. BINDHARDT	Member	January 2, 1976
W.L. BLAIR	Member	April 15, 1976 to April 15, 1981
D.H. McROBB	Member	January 3, 1978
P.G. WILKES	Member	January 16, 1978
J.E. HENDY	Member	January 30, 1978
V.M. SINGER, Q.C.	Member	September 1, 1978
M.D. HENDERSON	Member	September 1, 1978
D.L. SANTO	Member	March 10, 1980
D.M. ROGERS, Q.C.	Member	March 10, 1980
T.F. BAINES, Q.C.	Member	March 17, 1980
* J. WORRALL, Q.C.	Member	
* S.R. COLE	Member	
* G. CAMPBELL, Q.C.	Member	
* G.T. DOBBS	Member	
* G.M. HOBART	Member	
* D.W. MIDDLETON	Member	

* By Order in Council 2890/81 of October 8, 1981, the membership of the Land Compensation Board were appointed Members of the Ontario Municipal Board. In like manner the membership of the Ontario Municipal Board were appointed to the Land Compensation Board by Order In Council 2891/81 of October 8, 1981.

K.C. ANDREWS Secretary

PART III

ESTABLISHMENT and OPERATION

At the risk of repeating a part of the contents of other annual reports, a brief history of this Board might be warranted.

The Board was created in 1932 under The Ontario Municipal Board Act which repealed but incorporated many of the provisions of The Railway and Municipal Board Act (passed in 1906), The Municipal Schools Accounts Audit Act and The Bureau of Municipal Affairs Act. The establishment of the Board and its authority is now derived from The Ontario Municipal Board Act, R.S.O. 1980, Chapter 347, as amended. Much of its jurisdiction and authority flows from The Municipal Act, The Planning Act, The Highway Improvement Act, The Assessment Act as well as numerous other statutes.

The Board acts as an independent administrative tribunal and is not an agency or commission. Its function and duties are prescribed by these Acts. When the Board holds a hearing, it is, of course, governed by any applicable statutes; but it is also subject to the rules of natural justice. The administration of justice could be said to be divided between the judicial arm of government (the Courts) and the executive arm, of which latter this Board is a branch. The Courts operate under strict rules and interpret and follow statutes and precedent. Administrative boards, such as this Board, administer what is sometimes called discretionary justice, having a minimum of rules and a wide spectrum of discretion. In matters of law and jurisdiction there is an appeal from the Board to the Courts. In the majority of matters, there is an appeal to the Lieutenant Governor in Council.

The extent and nature of the jurisdiction of the Board could be described as responsibility for the sound growth and development of municipalities within the framework of the statutes and protection of private interests as much as possible.

The Chairman has the responsibility of assigning specific Members to hearings. After the hearing has commenced, Members are deemed seized of such application. The responsibility of arriving at a decision is theirs and theirs alone. While two Members constitute a quorum to hear and dispose of any application, the Chairman is empowered to appoint one Member to hear and decide an application.

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PART IV

GENERAL

The tables on the following pages of this report will show that a total of 6,549 applications and appeals had been received by the Board in 1981.

The Board conducted 1,676 hearings dealing with some 2,308 individual matters. It should be noted that while there has been some decrease in the total of applications brought to the Board, there has not been any decrease in the number of matters required to be dealt with by way of Board hearings.

Many such hearings, because of complexity, require lengthy hearing periods and the Board Members in 1981, as in previous years, had been in attendance at hearings on a continual basis throughout the year, which involved constant travel to all areas of the Province. Three members of the Board were seconded in 1980 to conduct hearings on the Niagara Escarpment Plan, and the work of the hearing officers in this connection continued throughout 1981.

Applications which do not require hearings are nonetheless still subject to review consideration and decision by the Board, and during 1981, the Board disposed of 6,929 various matters which involved the preparation and issue of 6,279 Board Orders.

The Board continued in 1981 its review and revision of administrative procedures to alleviate delays and ensure the prompt processing of material received in order that the Board may deal with such matters as expeditiously as possible.

As indicated under Part II of this Report, the membership of the Board was enlarged on October 8, 1981, by the appointments of the Members of the Land Compensation Board and likewise the appointment of the Ontario Municipal Board Members to the Land Compensation Board. Such cross appointments will permit utilization of the Members of both Boards as may be required to meet the hearing demands according to the workload of each Board.

With the implementation in July, 1981, of the Consolidated Hearings Act, the Ontario Municipal Board and the Environmental Assessment Board are required to provide Members for appointment to Joint Boards as required. On applications received under the Consolidated Hearings Act, the Chairman of this Board and the Chairman of the Environmental Assessment Board by order establishes the Joint Boards as required by the appointment of Members from each of the Boards. To date six applications have been received under this legislation.

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PART V

GROWTH AND ECONOMIC STABILITY OF MUNICIPALITIES

1: 1981 Changes in Status and Boundaries of Ontario Municipalities

ANNEXATIONS

FILE #			EFFECTIVE DATE
M 80396	TO : FROM :	SHALLOW LAKE, Village of KEPPEL, Township of (part)	January 1, 1981
M 8028	TO : FROM :	AMHERSTBURG, Town of MALDEN and ANDERDON, Townships of (parts)	January 1, 1981
M 80345	TO : FROM :	CASSELMAN, Village of CAMBRIDGE, Township of (part)	March 1, 1981
M 80393	TO : FROM :	VANKLEEK HILL, Town of WEST HAWKESBURY, Township of (part)	April 1, 1981
M 80395	TO : FROM :	NEUSTADT, Village of NORMANBY, Township of (part)	January 1, 1981
M 79136	TO : FROM :	CHATHAM, City of RALEIGH, Township of (part)	January 1, 1982
M 80577	TO : FROM :	RENFREW, Town of HORTON, Township of (part)	July 1, 1981
M 8172 M 8143	TO : FROM :	BLENHEIM, Town of HARWICH, Township of (part)	July 1, 1981
M 80501	TO : FROM :	HENSALL, Village of HAY, Township of (part)	January 1, 1982
M 81214	TO : FROM :	TOTTENHAM, Village of TECUMSETH, Township of (part)	December 1, 1981
M 78333	TO : FROM :	WALLACEBURG, Town of CHATHAM, Township of (part)	January 1, 1981

DISSOLUTIONS

FILE #		EFFECTIVE DATE
M 80347	COBOCONK, Police Village of -in the Townships of Somerville and Bexley	January 1, 1981
M 80549	PORT LAMBTON, Police Village of -in the Township of Sombra	retroactive to December 31, 1980
M 80598	KINMOUNT, Police Village of -in the Township of Somerville	January 1, 1981
M 8147	ST. EUGENE, Police Village of -in the Township of East Hawkesbury	January 1, 1981
M 8112	CHUTE-A-BLONDEAU, Police Village of -in the Township of East Hawkesbury	retroactive to December 31, 1980
M 8183	ETHEL, Police Village of -in the Township of Grey	January 1, 1981
M 80544	FOURNIER, Police Village of -in the Township of South Plantagenet	January 1, 1981
M 80566	OAKWOOD, Police Village of -in the Township of Mariposa	December 31, 1981

ERECTIONS

No applications received as of December 31, 1981.

WARD BOUNDARIES

M 80545	WELLAND, City of readjust certain ward boundaries	May 6, 1981

COMPOSITION OF COUNCIL

No applications received as of December 31, 1981.

QUIETING ORDERS

M 80352	Alteration of the boundaries of a portion of the Village of Lucan, County of Middlesex	Board Order made on September 17, 1981

INCORPORATIONS

M 79409	MISSANABIE (Incorporation into an Improvement District)	June 22, 1981 (dismissed)

2: Approval of Capital Undertakings and the Imposition of Rates and Levies to Recover the Cost thereof

In 1981, the Board again revised the booklet prepared on "The role of the Ontario Municipal Board with respect to undertakings involving long-term commitments by Ontario Municipalities and School Boards". The revised booklet was mailed to all Commissioners of Finance and Treasurers of all regions, counties and municipalities in the Province to provide a better understanding of the Board's role and for assistance in providing the financial information as required by the Board in this connection.

In order to avoid delay and to expedite the processing of applications for approval of capital expenditures, the Board establishes in each year:

(a) a capital expenditure quota for all regional municipalities and cities and the larger Towns and Townships that normally submit applications frequently in one year, and

(b) a permissible debt limit for all other municipalities.

Control Guidelines

In the past, the Board employed a basic guideline of a percentage of equalized assessment to determine long-term debt capacity.

Equalized assessments were revised in 1979 for use in 1980, and these assessments will be revised annually. In order for the Board to continue using equalized assessment, it would be necessary to revise annually the percentages after a study of the effect of the revised equalized assessments. The time required for such an analysis could result in delays in setting quotas and debt limits.

In view of this and since local municipalities now obtain a larger portion of revenue from sources other than assessment, the Board decided to employ as a basic guideline a capitalization of total municipal expenditures deemed available to finance long-term debt charges.

The following table shows the number of applications for approval of capital expenditures and related matters received by the Board in 1981 and the previous five years.

Year	Applications
1976	3056
1977	2608
1978	2536
1979	2364
1980	2426
1981	2148

3: Applications and Appeals to the Board under The Planning Act

The following table shows the number and types received in 1981 and the previous five years:

		1976	1977	1978	1979	1980	1981
1.	Applications for approval of restricted area by-laws	3202	3417	3569	3995	2484	2283
2.	Applications for approval of plans of redevelopment	0	1	24	18	21	17
3.	Applications for approval of proposed plans of subdivision and condominium	47	62	34	71	46	52
4.	Applications for approval of Official Plan amendments	157	229	213	180	243	208
5.	Appeals for amendment of restricted area by-laws	120	109	112	146	121	109
6.	Appeals from Committees of Adjustment and Land Division Committees	2205	1793	1833	1704	1358	1122
		5731	5611	5785	6114	4273	3791

4: Assessment Appeals and Miscellaneous Applications

In addition to the number of capital expenditure applications and applications under The Planning Act, the Board received the following appeals and applications in 1981 under the various statutes specified:

The Assessment Act	406
The Conservation Authorities Act	50
The Local Improvement Act	2
The Municipal Act	49
The Pits and Quarries Control Act	9
The Public Transportation and Highway Improvement Act	4
Special Legislation (Municipalities)	28
Other	62
TOTAL	610

5: Summary of Applications and Appeals

The following is a summary of applications and appeals to the Board for the years 1976 to 1981:

	1976	1977	1978	1979	1980	1981
Restricted Area By-laws, Official Plan Amendments, etc.	3526	3818	3952	4410	2915	2669
Committee of Adjustment and Land Division Committee Appeals	2205	1793	1833	1704	1358	1122
Capital Expenditure Applications	3056	2608	2536	2364	2426	2148
Assessment Appeals and Miscellaneous	356	367	359	459	631	610
	9143	8586	8680	8937	7330	6549

6: Summary of Applications and Appeals Completed and Files Closed in 1981 and Preceding Five Years

	1976	1977	1978	1979	1980	1981
Restricted Area By-laws, Official Plan Amendments, etc.	2659	3512	4369	4563	3041	2904
Committee of Adjustment and Land Division Committee Appeals	1834	1783	1943	1868	1704	1340
Capital Expenditure Applications	3073	2636	2656	2540	2528	2200
Assessment Appeals and Miscellaneous	265	334	366	345	551	485
	7831	8265	9334	9316	7824	6929

7: **Board Hearings**

Years	No. of Hearings	No. of applications dealt with at hearings
1976	1877	2325
1977	1996	2492
1978	2351	2959
1979	2366	3286
1980	2384	3135
1981	1676	2308

8: **Board Decisions**

Decisions of the Board of leading cases may be found in the Ontario Municipal Board Reports (O.M.B.R.) published by Canada Law Book Limited under arrangement made with the Board and the Ministry of the Attorney General. Copies of decisions are also distributed by the Board to appropriate Government agencies and to various universities and law libraries for reference purposes. Copies of individual decisions may be obtained on request from the offices of the Board.

9: Cabinet Decisions on Petitions during 1980 and 1981 - A Comparison

In the year 1980, 144 new Petitions were filed. The breakdown was as follows:

Carried over from 1979	-	65
Petitions filed in 1980	-	144*
Confirmed	-	101
Rescinded	-	7
New Public Hearings	-	4
Varied	-	15
Abandoned, etc.	-	17
Ruled out of time, etc.	-	6
Total decisions	-	215
Carried over to 1981	-	65

*Of Petitions filed in 1980, 38 were severance appeals and 15 minor variance appeals.

In the year 1981, 100 new Petitions were filed. The breakdown was as follows:

Carried over from 1980	-	65
Petitions filed in 1981	-	100*
Confirmed	-	64
Rescinded	-	14
New Public Hearings	-	4
Varied	-	26
Abandoned, etc.	-	14
Ruled out of time, etc.	-	4
Total decisions	-	165
Carried over to 1982	-	39

*Of Petitions filed in 1981, 14 were severance appeals and 8 minor variance appeals.

PART VI

REVENUE

In compliance with the requirement of Section 99 of The Ontario Municipal Board Act, the Board has adopted a tariff of fees payable on various types of applications, appeals and orders. (O. Reg. 27/73 Amended by O. Reg. 234/80 and 623/81)

The following table sets forth the fees received by the Board and transferred to the Treasurer of Ontario for the fiscal year ending March 31, 1981, and the preceding five years. In conformity with provincial accounting the fiscal year amounts are shown in contrast to other statistics in this report which are for the calendar year of 1981:

Fiscal Year	Amount
1975-76	$647,305.08
1976-77	514,568.17
1977-78	493,482.25
1978-79	505,912.44
1979-80	451,127.78
1980-81	566,729.85

The revenues of the Board for the calendar year 1981 amounted to $585,716.09.

All of which is respectfully submitted.

H.E. STEWART
CHAIRMAN

K.C. ANDREWS
SECRETARY